
**Criminal Justice & Corrections
Committee**

HB 1014

Brief Description: Revising DNA testing provision.

Sponsors: Representatives Darneille, O'Brien, Cody, Morrell, Chase and Schual-Berke.

Brief Summary of Bill

- Eliminates the December 31, 2004, expiration date for convicted persons to request postconviction deoxyribonucleic acid (DNA) testing.
- Eliminates the requirement that states that after January 1, 2005, all DNA issues must be raised at trial or on appeal.
- Requires requests for postconviction DNA testing to be submitted directly to the courts instead of the Office of Public Defense (OPD) and the county prosecutor's office.
- Provides for some indigent persons to obtain legal counsel solely to prepare and present a motion for postconviction DNA testing.
- Requires all biological material secured in connection with a criminal case to be preserved for a length of time as defined by the court.

Hearing Date: 1/21/05

Staff: Yvonne Walker (786-7841).

Background:

Postconviction DNA Testing. Through December 31, 2004, a person sentenced to imprisonment for a felony conviction who has been denied postconviction DNA testing may request postconviction DNA testing, if the DNA testing was not admitted at his or her trial because:

- The court ruled that DNA testing did not meet acceptable scientific standards; or
- DNA testing technology was not sufficiently developed to test the DNA evidence in the case.

On or after January 1, 2005, a person must raise the DNA issues at trial or on appeal.

A request for postconviction DNA testing must be submitted to the OPD. The OPD then transmits the request to the county prosecutor's office in the county where the conviction was obtained. The prosecutor screens the request and determines whether:

- the evidence still exists; and
- there is a likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis.

The prosecutor must inform both the requestor and the OPD of the decision on testing. If the prosecutor denies the request, the prosecutor must advise the requestor of appeals rights.

Appeals of Prosecutorial Denials. Upon the denial of a request for postconviction DNA testing, the decision may be appealed to the Office of the Attorney General (AG). The request must be granted if the AG's office determines that it is likely that the DNA testing would demonstrate innocence on a more probable than not basis.

DNA Testing. The DNA testing, if ordered, must be conducted by the Washington State Patrol Crime Laboratory.

Biological material secured in connection with a criminal case prior to July 22, 2001, may not be destroyed before January 1, 2005.

Summary of Bill:

Any person sentenced to imprisonment for a felony conviction may submit a written motion directly to the court of conviction requesting postconviction DNA testing. A copy of the motion must also be submitted to the OPD.

Each motion requesting DNA testing must state the following:

- the court ruled that DNA testing did not meet acceptable scientific standards;
- that the DNA testing technology was not sufficiently developed to test the DNA evidence in the case; or
- the DNA testing currently being requested would be significantly more accurate than prior DNA testing or would provide significant new information.

In addition, the motion must: 1) explain why the DNA evidence is material to the identity of the perpetrator or accomplice involved in the crime or to the sentence enhancement; and 2) comply with all procedural requirements established by court rule.

If the motion submitted to the court meets the appropriate standards and the person sentenced to imprisonment has shown the likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis, the court (instead of the prosecutor) must grant the motion to request DNA testing.

Upon a written request to the court, the court may in its discretion appoint legal counsel to solely prepare and present a motion for postconviction DNA testing for an indigent person serving a term of imprisonment. A motion for appointment of counsel must comply with all procedural requirements established by court rule.

Appeals of Prosecutorial Denials. The appeals process previously handled by the AG is eliminated.

DNA Testing. All DNA testing, if ordered, will continued to be conducted by the Washington State Patrol Crime Laboratory.

Upon the motion of defense counsel or at the court's own motion, all biological material or evidence samples that have been secured in connection with a criminal case must be must be preserved. The court must specify the samples to be maintained and the length of time the samples must be preserved.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.